

**MINUTES OF A REGULAR MEETING
OF THE
BOARD OF TRUSTEES
OF THE
TOWN OF BUENA VISTA, COLORADO
JULY 13, 2010**

WORK SESSION

A Work Session of the Board of Trustees convened at 6:04 PM on Tuesday, July 13, 2010, at the Buena Vista Community Center, Pinon Room, 715 E. Main Street, Buena Vista, Colorado to discuss the Leesmeagh Dry Up and Other Water Matters. Present were Robert Flint, Duff Lacy, Jerry Steinauer, Keith Baker, Norm Nyberg, Carrie Carey, Town Administrator Sue Boyd, Town Engineer Rachel Friedman, Public Works Director Roy Gertson, Town Planner Shannon Haydin, Town Water Attorney Cyndi Covell, Town Water Engineer Trish Flood and Town Clerk Diane Spomer.

Town Administrator Boyd began the work session by noting the purpose is to look at priority of water and more specifically around the Leesmeagh Dry Up and to provide general water information such water rights, demand projections and conversations about Cottonwood Creek regarding the Leesmeagh dry up. Town Water Engineer Trish Flood gave an overview of the Town's water rights.

Mayor Benson jointed the meeting at 6:10 PM.

Town Engineer Friedman outlined water usages (averages and peaks); the number of taps/demand; there are 1490 outstanding taps, 27 inactive taps currently and 780 new taps that can be supported; gave geographic locations of specific facilities like the treatment plant, infiltration gallery and Town well.

Water Attorney Cyndi Covell led the discussion on finding additional sources of supply to meet future needs like an Arkansas Valley river source; well #3 will need augmentation from Water Court to make up for water depletions; have discussed participation in the Moltz Reservoir but need a source to supply water; purchasing senior water rights to be converted to municipal use; working with UAWCD to increase our water supply.

Trish Flood gave an update on the Leesmeagh dry up and the monitoring of ground water levels, the map drawn to show water table elevations; 10.9 acres shows dry up now or 17% of our monthly limitations; we will continue monitoring for additional dry up; John Cogswell has a proposal relating to the dry up of the meadow.

Discussion held on the Moltz Reservoir and storage of water; checking the status of the Moltz water court case; Moltz does not have a final agreement with UAWCD that would convey the water to them.

Sue added that a draft was presented by John Cogswell that is not finalized yet - he is waiting to hear from his attorney; we promised the Town would proceed to get a plan for what we want to do with Leesmeagh water rights and municipal water. Discussion continued on when we could reach total dry up; piezometer readings will be able to tell us if we reach the 4'; a couple more years are needed to see about drying up the 63 acres and seeing if we have "demonstrated dry up"; consider methods to hasten the dry up; the rate of dry up since the start-it is still decreasing; further analysis will cost more money and we do not have a final proposal from John Cogswell; look at John's proposal, review it and let him know who will be paying reimbursable fees. The work session concluded at 7:00 PM.

CALL TO ORDER

The Regular meeting of the Board of Trustees was called back to order at 7:05 PM on Tuesday, July 13, 2010, at the Buena Vista Community Center, Pinon Room, 715 E. Main Street, Buena Vista, Colorado by Mayor Joel Benson. Present were Trustees Norm Nyberg, Jerry Steinauer, Carrie Carey, Keith Baker, Duff Lacy, Robert Flint, Town Administrator Sue Boyd, Town Attorney Jeff Parker, Town Planner

Shannon Haydin, Public Works Director Roy Gertson, Town Engineer Rachel Friedman, Police Chief Jimmy Tidwell, Town Treasurer Christine DeChristopher and Town Clerk Diane Spomer.

ROLL CALL

Town Clerk Spomer proceeded with the roll call and declared a quorum.

PLEDGE OF ALLEGIANCE

Mayor Benson led in the Pledge of Allegiance.

AGENDA ADOPTION

Motion #1 by Trustee Baker, seconded by Trustee Flint, to adopt the agenda as presented. Motion carried.

CONSENT AGENDA

- A. **Minutes**
 - 1. Regular Meeting – June 22, 2010
- B. **Advisory Boards**
 - 1. Planning & Zoning Commission
 - 2. Trails Advisory Board
 - 3. Beautification Advisory Board
- C. **POLICE DEPARTMENT/CALL REPORT/MUNICIPAL COURT**
- D. Should the Board approve adoption of Resolution #74, Series 2010, entitled "**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO, APPROVING A LEASE AGREEMENT WITH COMFORT GAS, INC. FOR A PROPANE TANK**"?

Trustee Steinauer referred to page 24 under Chuck Quenon's comments and noted that the County Board of Adjustments took care of someone's double taxation and felt the residents in Westmoor could get out of it if they went in individually and filed their grievance to the Commissioners; on page 26 on the S. Main discussion, the first sentence "after the Board tried to attach" should be deleted and add "tied".

Trustee Baker noted on page 27 at the bottom under Jeremy's comments on the antenna delete the words "and the antenna is also 80'. Keith asked Trustee Carey about the citizen comments on speeds on James Street. Trustee Carey stated she spoke with Jimmy Tidwell about having officers check the speeds periodically.

Motion #2 by Trustee Flint, seconded by Trustee Nyberg, to approve the Consent Agenda as amended. Motion carried.

PUBLIC COMMENT

Gary Dittrich, 212 US Hwy 24 S, thanked the Board for their service and as an experienced Police Officer, expressed the following about Sexually Oriented Businesses: if they are allowed they will increase calls to the Police Department and bring prostitution, product sales, etc; you cannot prohibit them simply because you do not want them; they have a right to free speech "even though they do not have a lot to say but a lot to show"; added that the answer is regulation and zoning; provided a copy of an ordinance from a municipality in Arizona and stated you can successfully ordinance/regulate the businesses as you want and urged Council to study effective ordinance.

John Schnaderbeck, 16900 CR 363, Buena Vista Sportsman's Club, provided a letter regarding the Recreational Master Plan and asked for some signage to keep people from walking into their range area, a berm to the east and north of the Sportsman's Club shooting range along with a defined parking area for the rodeo grounds.

RESPONSE TO PUBLIC COMMENT

Mayor Benson stated the Sexually Oriented Business Ordinance will be discussed later during a Public Hearing, the Town does not have any regulations now and tonight's discussion is to put some in place.

The Sportsman's Club will be discussed later tonight and comments will be taken under consideration. Trustee Baker thanked John Schnaderbeck for his comments and added that staff has put in a lot of time and John would feel good about the ordinance that is being proposed.

OLD BUSINESS

DISCUSSION OF THE RESTROOMS AT S. MAIN

Sue Boyd referenced a memo from Jed Selby with specific comments regarding his proposal to tie the restroom construction to Phase III or the construction of a hotel whichever comes first.

Trustee Steinauer explained the history around paving of Baylor Drive that was tied to the sale of all the lots, one lot was vacant forever and never sold so the taxpayers paid for the paving of Baylor Drive and thus did not want the restrooms tied to having anything being built or to something that may never happen; there are port-o-potties on the river and we have them when special events occur and if we tie the restrooms to the construction of something it may never get built.

Discussion followed on original discussions were around the restrooms being built as part of Phase I and the San. Dist. based their system on that; tie them to a request for approval of Phase III or II; attach to Phase III or construction of the hotel whichever comes first; the language in the agreement is very vague.

J J, Project Engineer for S Main, noted the language was vague at the time and they are trying to define something that will be satisfactory to everyone with a trigger.

Discussion continued on the Development Agreement says the phasing plan can be amended from time to time; restrooms could be tied to the sale of certain lots with a date certain; Jed Selby had described to staff that the restroom and hotel would have a common wall with separate entrances.

Motion #3 by Trustee Steinauer, seconded by Trustee Nyberg, to have staff negotiate with S. Main the restrooms being built and tied to the presentation of the next phase approval . Discussion held on working on concrete language and bring a document before the Board for approval; JJ stated the D.A. was done to tie big items to various phases of the development so it wasn't front loaded; Phase II has the round-about tied to it and the rationale was that Phase III would have the restrooms tied to it-concern that it accelerates this phase since it has a large piece tied to it. Trustees Baker and Lacy voted against and Trustee Carey abstained. Motion carried.

Sue Boyd asked that the Rec Master Plan could be the next item since the Rec Board members were present and no one was present for the carving contract.

NEW BUSINESS

PRESENTATION OF THE RECREATION FACILITIES MASTER PLAN, RECREATION BOARD

Earl Richmond, 412 Cedar, gave a recap of who the Rec Board is and where they have come the last year: focusing on everyone looking at facilities and recreation opportunities in the Town to draw people in to support business and to increase taxes; have listened to new needs and old; a year ago they looked at a large recreation facility being built by applying for a planning grant and did not receive it; they restructured and with help from town staff came up with a new vision for a Recreation Master Plan and asked the Trustees to approve the plan so they can move forward with recreation and opportunities.

Eric Gibb, 230 N. Gunnison, outlined what has happened the last six months; noted the Plan gives us a map of where things can go; they held public meetings with interested individuals providing what was important to them and prioritizing them for the community; looked at maintenance and safety issues; requested the Trustees consider approval of the plan and consider providing staff support to build the projects and permission to use the Town as a financial agent to apply for grants.

Rachel Friedman presented specific features of the Master Plan and outlined their review of available facilities and the best fit for each and noted the following: priority 1 hazards; short range proposed improvements; long range proposed improvements; spoke with John Schnaderbeck today and they have agreed to wait for the dirt to be moved for the berm area at the shooting range and requested adoption of the Master Plan.

- Should the Board approve adoption of Resolution #76, Series 2010, entitled "**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO, ADOPTING THE RECREATION FACILITIES MASTER PLAN OF 2010**"?

Discussion held on the historical significance of the grand stand at the rodeo grounds; this Plan is a road map and how to pay for the projects will follow later; being bmx compatible for constructing the skate park.

Motion #4 by Trustee Baker, seconded by Trustee Nyberg, to adopt the Recreation Master Plan. Discussion continued on adding an executive summary along with an appendix.

Trustee Baker amended his motion, seconded by Trustee Nyberg, to include the executive summary and appendix as requested by staff. Motion carried.

Should the Board approve adoption of Resolution #75, series 2010, entitled "**A RESOLUTION OF THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA VISTA, COLORADO, AUTHORIZING EXECUTION OF A CONTRACT FOR PROFESSIONAL WOOD CARVING SERVICES WITH KEN BRAUN, RUSTIC ARTS OF CORTEZ, COLORADO**"?

Public Works Director Gertson advised Council this was the only carver that put in a proposal and staff negotiated with him to have two carvings; there is a clause in the scope of Services that if the tree is not carvable we can stop the carving and pay a minimal amount; Ron reviewed the contract and has signed; the schedule is to carve the end of July and staff recommends approval of the contract.

Motion #5 by Trustee Flint, seconded by Trustee Baker, to adopt resolution #75, Series 2010. Roll call vote: Carey-nay, Flint-aye, Steinauer-nay, Nyberg-aye, Baker-aye, Lacy-aye. Motion carried.

PUBLIC HEARING – Should the Board approve adoption of Ordinance #20, Series 2010, entitled "**AN ORDINANCE OF THE BOARD OF TRUSTEES FOR THE TOWN OF BUENA, COLORADO, ADOPTING A NEW ARTICLE IV OF CHAPTER 6 AND ARTICLE XIII OF CHAPTER 16 OF THE BUENA VISTA MUNICIPAL CODE REGARDING SEXUALLY ORIENTED BUSINESSES**"?

Town Attorney Parker gave an overview of the ordinance and noted the Town does not have one in place currently; Sexually Oriented Businesses are protected by the first amendment and can be regulated by the Town. Jeff outlined the purpose, definitions, licensing requirements, term of license and renewal, appeal process, operational requirements, hours of operation, age restrictions, conduct and location restrictions.

Town Planner Haydin added that P&Z and staff felt the ordinance captured the input from the Trustees, the businesses could be allowed in the Industrial zone since it was away from residential areas.

Mayor Benson opened the public comment portion of the hearing at 8:45 PM

Ron Southard, 30600 CR 371, did not appreciate these types of businesses being placed in the industrial zone; the area designated is not I-1 but is under a PUD and asked if the Town will allow these types of businesses and override the PUD; expressed if the Town is going to have them they should be placed in the business area or don't allow them, stated his opposition and asked how noticing adjoining neighbors wasn't done like other zoning hearings.

Debbie Dittrich stated she was not familiar with the designated area.

Shannon Haydin stated if the Colorado Center PUD is taken off the table, some shading is taken off specific areas; stated Attorney Parker advised staff if it is on a one acre parcel in Town it is legitimate; we could look at distance requirements and how it would impact where it is allowed.

With no other comments received Mayor Benson closed the public comment portion of the hearing at 8:51 PM.

Discussion followed on the church community and no one may actually file for a license; change language in Sec. 16-300 to "school owned property" and change to 1000 feet; take the monument model for Medical Marijuana Centers and use the limitations; if allowed on Hwy. 24 it could be in someone's back yard; they could be allowed on Cedar Street; massage parlors vs. massage therapists and State licensing requirements; add a provision that there be no enclosed stage areas; stay the Colorado Center PUD and the business would not be allowed except in the I-1 District; the moratorium is in effect until August 13 and an ordinance to extend the moratorium can be approved at the next meeting.

Motion #6 by Trustee Baker, seconded by Trustee Flint, to continue the Public Hearing to July 27, 2010. Motion carried.

PRESENTATION OF THE AMENDED 2010 BUDGET

Christine DeChristopher presented the proposed amended 2010 budget and requested setting the Public Hearing on the amended budget to allow for publication of a notice and for review by the Board before the hearing and noted a few specifics of the amendment.

Motion #7 by Trustee Flint, seconded by Trustee Lacy, to set the Public Hearing to July 27, 2010. Motion carried.

RECOMMENDATION OF AWARD FOR THE CIVIL ENGINEERING CONTRACT

Rachel Friedman led the discussion by outlining a few months ago we requested an RFQ for a Civil Engineer and received 20 bids; staff reviewed the bids and picked the top five with interviews in late June; a consensus was reached to recommend Olsson Associates; page 84 outlines services they have provided to numerous municipalities and asked for approval to formalize a contract with Olsson Associates.

Discussion held on comparison of fees which are on the high end but not significantly so; Olsson gets things done quickly so they don't cost as much; interviewed one local engineer but Olsson stood out; staff looked for firms that had broad depth of in-house ability; if approved a contract will be brought back at the next meeting; additional information was requested by the Trustees to see how the decision was made.

Motion #8 by Trustee Lacy, seconded by Trustee Carey, to instruct staff to proceed. Discussion continued on length of the contract will be one year and then renewable; projects that are coming in the future will last longer than one year and the learning curve involved. Motion carried.

STAFF REPORTS

TOWN ADMINISTRATOR

Administrator Boyd had the following items to cover:

- The G402 training was postponed again and is now rescheduled for August.
- There are things to consider in working with consultants to review the Leesmeagh dry up: we don't have a firm commitment in terms of a full evaluation as it is a Meadows request; the cost of having your water engineer and attorney evaluate technical proposals that are not easy for the average person and these fees are reimbursable; we have had discussions on the fees in relation to this project and Mr. Cogswell knows this is where we are; unless otherwise directed, staff does not need to put any resources into his proposals unless there is a commitment from the applicant to cover reimbursable fees. Attorney Parker noted we have outstanding fees and are working on a Fee Extension Agreement that Mr. Cogswell has not signed yet. Discussion followed on water rights and pursuing them.
- We have a revision to the Colorado Center Development Agreement provided by Mr. Southard and are evaluating it and meeting with Ron to discuss changes.
- There are concerns of local government on November ballot questions and what they mean to providing services in general.
- Trustee Baker asked about the situation on Brookdale and the e-mail that was presented. Sue Boyd suggested the Trustees could get legal advice in Executive Session at the next meeting and Attorney Parker could prepare a memo.
- Staff is proposing a work session Aug. 17 for the Capital Improvement Plan at 7 PM - an e-mail will be sent to the Trustees as a reminder; a Strategic Priorities Session was discussed briefly; a tentative Saturday work session is scheduled from 8 A - 2 P on Sept. 25. Council concurred.
- I was contacted by the new Director of the Econ. Dev. Corp. and will meet with them shortly.
- Staff is meeting with homeowners from the JWP Subdivision tomorrow to discuss options to solve a water line issue.
- The Alltel agreement was on the agenda for tonight but postponed because they are merging with AT&T and they are slow in their review process; once the agreement is received it will be reviewed and brought before the Board.
- We were notified of a pending merger of Bresnan and Cablevision; staff is reviewing the documents and will come back with a request for resolution of the franchise/merger.
- Rachel Friedman stated there is a highway funding opportunity with a deadline before the next meeting (USDOT Tiger II Grant) with a minimum amount of \$1,000,000 and Gregg Drive might be an ideal project for the funding; if it is applicable we will pursue or we can get sidewalks, walkways and handicap ramps on Hwy. 24; the pre application is due July 26 with no required match and requested input from the Trustees. Council concurred with pursuing.

AIRPORT MANAGEMENT

Administrator Boyd had the following items to cover:

- The Airport Commission reviewed the FBO proposal and are scheduling an interview; we have also had two phone inquiries and asked for input from the Trustees. Discussion followed on procedure since the bid timeline has passed; talking with them and then negotiation. The Trustees asked Sue to keep talking to them.
- The Airport Commission had a conversation on an outstanding policy question regarding ground leases on who will be responsible for extending asphalt and had these options: have applicants wait for the Town to install the asphalt as part of the CIP, the Town require the developer to pay for extension of asphalt or allow hangars to be developed on dirt without a taxiway and Aviation does not support the latter. We will continue to evaluate.

- We are continuing to talk to Mr. Mandes about the hangar and has evolved to a two part concept with options to purchase and separate management agreement;
- We are meeting with Air Petro tomorrow to resolve payment from them or lack thereof.
- CDOT recommended we put security cameras, card reader system into the discretionary grant for CIP submitted last week in case using our left over grant money does not materialize or we will have to jump through bureaucratic things
- The Airport Activity Report for June and July is challenging and staff is scrambling to keep up with the high volume of activity.
- Jill Van Deel is working on financials with Christine and Dave Strosnider is working on the activity reports.

TOWN TREASURER

- We received three bids for the window rehab project and the State Historical Fund wants to review them so the project will take a little more time.
- Sales tax information came in today, we were "even" for May sales but the County was down 4% and we are slightly under our budget the first five months.
- Trustee Lacy asked about the Town leasing a truck from Air Petro and then not getting paid for our credit cards. Christine advised that last year we had to put a new chip into the system and had trouble with September payments since we did not know it wasn't working for three weeks; Air Petro was bought by the Hiller Group and they started the merge process for collection of the money in early June or end of May; we didn't get money until June 19; they have missed some payments and are trying to work through the 2009 issues.

TOWN PLANNER

- Mayor Benson thanked Shannon for her work on the historic preservation of buildings.

PUBLIC WORKS DEPARTMENT

- Rachel Friedman noted there is a proposed revision to the Development Code for Trustee review before the next meeting and it was provided in the packet; P&Z reviewed last week with their comments incorporated in and will get final approval next week at their meeting.
- Roy Gertson stated a few tools are available to find taps we are short on like leakage detection and conservation measures; water volumes are related to our master meter plan and Rachel found we are operating at a loss; the next step is a leak detection program; most of our taps were installed in the 1960's and the copper is thin; we want to find the 20% loss factor and also need to look at an aggressive program for consumer conservation to better manage our water resource. Discussion held on costs of \$8,000 for probes; implementing water restrictions.
- Trustee Nyberg asked about getting the fire hydrant mowed out near Shady Lane. Roy noted the mower is out now and they can take care of it.
- Mayor Benson mentioned seeing people trying to cross from the Library to the Park with no crosswalk and the placement of utility boxes. Roy will look at it again and the utility boxes. Joel asked for the status of the rocks & rope project. Roy stated they are making a thrust this week, will finish up softball and drains over the course.
- Trustee Carey received complaints about the alley behind the Green Parrot. Roy will schedule looking at grading and drainage issues.
- Trustee Steinauer asked about a letter from Ivy League. Roy stated it will be discussed during the staff meeting tomorrow. Jerry added that they offered to pay something for the leak detection equipment.


TRUSTEE/STAFF INTERACTION

- Mayor Benson received complaints about Rec activities being doubled up on and asked staff to be aware of it; received complaints about people riding dirt bikes on their property and asked if it was addressed in our code. Staff will look at the code.

ADJOURNMENT

Motion #9 by Trustee Flint, seconded by Trustee Nyberg, noting that there being no further business to come before the Board declared that the meeting be adjourned at 10:09 PM. Motion carried.

Respectfully submitted:



Mayor, Joel Benson

Town Clerk, Diane Spomer